

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

THE LINCOLN NATIONAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

YOEL SCHWARZ AND ERNST
SCHWARZ AS TRUSTEES OF THE
VALERIA SCHWARZ IRREVOCABLE
LIFE INSURANCE TRUST,

Defendants.

Civil Action No.: 09-03361(FLW)

ORDER

THIS MATTER having been opened to the Court by James S. Bainbridge, Esq., counsel for Plaintiff Lincoln National Life Insurance Company (“Plaintiff”), on a motion to dismiss Defendants Yoel Schwarz and Ernst Schwarz as Trustees of the Valeria Schwarz Irrevocable Life Insurance Trust’s (“Defendants”) Counterclaims pursuant to Fed. R. Civ. P. 12(b)(6); it appearing that Defendants oppose the motion through their counsel David Benhaim, Esq.; the Court having reviewed the submissions in connection with the motion pursuant to Fed. R. Civ. P. 78, for the reasons set forth in the Opinion filed on even date, and for good cause shown,

IT IS on this 6th day of June, 2011,

ORDERED that Plaintiff’s motion to dismiss Defendants’ counterclaims is **GRANTED**;
it is further

ORDERED that counterclaims one and three of Defendants’ Answer are dismissed with prejudice; it is further

ORDERED that the portion of counterclaim two asserting a bad faith claim is dismissed with prejudice; and it is further

ORDERED that the portion of counterclaim two asserting a fraud claim is dismissed without prejudice.

/s/ Freda L. Wolfson
The Honorable Freda L. Wolfson
United States District Judge